

## **CHAPTER 1: TITLE, INTENT AND PURPOSE**

### **Reg.33.101 Title**

The following rules and regulations, adopted by authority of and in accordance with the provisions of A.C.A. Sections 8-1-203, 8-10-303(a)(3)(E), and 8-10-304(b)(6) shall be known as the "Motor Vehicle Racing Facility Regulations," hereinafter referred to as Regulation Number 33.

### **Reg.33.102 Purpose**

The purpose of this regulation is to implement the provisions of A.C.A. Sections 8-10-302, 8-10-303, and 8-10-304.

### **Reg.33.103 Applicability**

This regulation shall apply to all motor vehicle racing facilities constructed on or after January 1, 1995. All permits previously issued to motor vehicle racing facilities shall remain in effect for the full period of time for which they were issued. Subsequent applications for permit renewal shall comply with the requirements of this regulation.

### **Reg.33.104 Severability**

If any provision of this regulation, or the application of such provision to any person or circumstance, is held invalid, the remainder of this regulation, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

## CHAPTER 2: DEFINITIONS

All words, terms, and phrases used in this regulation, unless the context otherwise requires, shall have their usual meaning. In addition, for purposes of this regulation, the following definitions apply:

**"Annual permit"** means the permit issued to a motor vehicle racing facility on an annual basis after the issuance of the initial permit.

**"Automobiles or trucks modified for racing"** means any vehicle designed to be operated with at least four wheels in contact with the ground and a gross dry weight, excluding the driver, of more than one thousand (1,000) pounds which is used in competitive racing or public racing demonstrations at a motor vehicle racing facility in Arkansas.

**"Begin construction"** means the initiation of physical on-site construction activities on a motor vehicle racing facility which are of a permanent nature.

**"Commission"** means the Arkansas Pollution Control and Ecology Commission.

**"Competitive racing of automobiles or trucks that are modified for racing"** means any event in which it is possible to compare the performance of the participants, even if such comparison is not actually done; or any event designed as an exhibition of driving skill.

**"Constructed"** means the completion of physical on-site activities so that a motor vehicle racing facility is capable of hosting competitive racing events.

**"Department"** means the Arkansas Department of Environmental Quality, or its successor. When reference is made in this regulation to actions taken by or with reference to the Department, the reference is to the staff of the Department acting at the direction of the Director.

**"Designed and used for competitive racing"** means any motor vehicle racing facility capable of hosting competitive racing.

**"Initial annual permit"** means the first permit issued to a motor vehicle racing facility.

**"Material change" or "Materially different"** means the addition of a new racing venue or other substantial and significant modification to the way the facility is operated.

**"Motor vehicle racing facility"** means any outdoor facility used for competitive racing by automobiles or trucks that are modified for racing.

- (3) For proposed facilities located within three (3) miles of more than one county, the party shall file the petition with the county clerk for each county.
- (C) The city or county clerk, as the case may be, shall verify the petition pursuant to A.C.A. Section 7-9-109.
  - (1) The clerk shall determine the sufficiency of the signatures and certify the sufficiency or insufficiency of the signatures in writing to the Department.
  - (2) The clerk's decision is not subject to review by the Department or the Commission.
  - (3) The city or county clerk's certification shall be valid for a period of eighteen (18) months from the date of issuance.
- (D) Reg.33.301(A) – (C) do not apply to any motor vehicle racing facilities located in a county having a population between eighty thousand (80,000) and ninety thousand (90,000) according to the 1990 Federal Decennial Census and that are:
  - (1) South of a navigable waterway that traverses the state; or
  - (2) More than two (2) miles from an interstate highway, public or private school, or church facility in place at the time of the original permit application.
- (E) No motor vehicle racing facility shall be permitted or constructed within one (1) mile of the boundary of another county if the proposed motor vehicle racing facility will be located in a county having a population between eighty thousand (80,000) and ninety thousand (90,000) according to the 1990 Federal Decennial Census and that are:
  - (1) South of a navigable waterway that traverses the state; or
  - (2) More than two (2) miles from an interstate highway, public or private school, or church facility in place at the time of the original permit application.

**Reg.33.302 Initial Annual Permit Application Requirements**

- (A) All motor vehicle racing facilities constructed after January 1, 1995, shall obtain a permit in accordance with this regulation.
- (B) Except as provided in Reg.33.301(D), all initial annual permit applications for a motor vehicle racing facility shall meet the requirements of Reg.33.301(A) – (C). The party must provide the clerk's certification of the signatures on the petition with the motor vehicle racing facility permit application.
- (C) Applications shall include a written proposal for the motor vehicle racing facility containing the substance of the proposed motor vehicle racing facility, including:

- (B) Public notice of an initial permit application and notice of public hearing shall be published in a newspaper of general circulation in the county in which the motor vehicle racing facility is proposed to be located. The Department shall provide or approve the format of the notice. The notice shall include:
- (1) The motor vehicle racing facility name and business address or legal description of the property;
  - (2) The type of permit for which the application has been made;
  - (3) The date the application was deemed administratively complete;
  - (4) Notice of the Department's proposed decision;
  - (5) The date, time and place of the public hearing; and
  - (6) A statement that oral public comments will be accepted at the public hearing. To ensure comments are accurately recorded, the Department prefers written comments. The period for written public comments shall extend from the date of the public notice to the date of the public hearing. Comments must be received by the close of the public hearing.
- (C) Those sections of Regulation Number 8 dealing with Public Notice of Permit Application (Reg.8.205), Request for Public Hearing on Application for Permit (Reg.8.206), Public Notice of Draft Permitting Decision (Reg.8.207), Public Comment on Draft Permitting Decision (Reg.8.208), Public Hearings (Reg.8.209), Public Meetings (Reg.8.210), and the second paragraph under "Director's Decision," Final Permitting Decision (Reg.8.211(A)(2)) do not apply to initial annual permits issued under this section.

**Reg.33.304 Final Action on Permit**

- (A) After the hearing for the initial permit or upon application for the renewal of its annual permit, if the Department shall be satisfied that the benefits of the motor vehicle racing facility are sustained by proof and outweigh its impact by the noise, air pollution, and traffic congestion caused by motor vehicle racing facilities, then the Department shall grant the initial permit approving the proposed motor vehicle racing facility or shall renew approval to the permitted or existing motor vehicle racing facility.
- (B) The Department may impose special conditions upon the issuance of the permit.
- (C) The Department shall notify in writing the owner/operator and any person that submitted public comments on the record of its final permitting decision.
- (D) The Department's final decision shall include a response to each issue raised, if any, during the public comment period.
- (E) No permit shall be issued unless the applicant has paid all fees assessed.

- (3) Renewal of an annual permit may also be denied if:
  - (a) The racing facility is determined to be in violation of any standards under which the permit was issued;
  - (b) The racing facility is constructed or is being operated in a manner that is materially different than was represented during the petition process; or
  - (c) Fraud, misrepresentation, or false statement of facts was used to obtain signatures for the petition process.
- (B) The requirements of Reg. 33.302(C)(8)&(9), (D), (E), and (F) shall apply to permit renewals.
- (C) In its discretion, the Department may hold public hearings for the renewal of any permits as is necessary.

**Reg.33.307      Permit Fees**

- (A) Each initial annual permit shall be subject to a fee of five hundred dollars (\$500).
- (B) Each annual permit shall be subject to a fee of two hundred dollars (\$200).
- (C) The requirements of Chapter 3 of Regulation Number 9 shall apply to fees collected under this regulation.



ARKANSAS  
Department of Environmental Quality

## DRAFT LETTER

CERTIFIED:

Mark Carter, Owner  
Carter Off Road Park, LLC  
14824 Chicot Rd.  
Mablevale, AR 72103

RE: Carter Off Road Park Inspection  
AFIN: 63-00000 Permit No.: N/A

Dear Mr. Carter:

ADEQ sent a certified letter to you, dated July 30, 2015; outlining the findings of the May 9, 2015 inspection of the above referenced facility. The letter requested that a written response be submitted to the Water Division Inspection Branch of this Department by August 17, 2015. To date, no response has been received.

This matter has been forwarded to the Water Enforcement Division. For additional information you may contact the Enforcement Branch by telephone at 501-682-0639 or by fax at 501-682-0910.

Sincerely,

A handwritten signature in cursive script that reads "Erica McAdoo".

Erica McAdoo  
District 9 Field Inspector  
Water Division

CC:

Richard Healey, ADEQ Water Division Enforcement Branch Manager  
Miles Johnson, ADEQ Water Division Enforcement Coordinator

